

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

LARRY T. KELLEY,)	
)	
Petitioner,)	
v.)	No. 1:03-cv-91
)	<i>Edgar</i>
CHARLIE JONES, WARDEN,)	
)	
Respondent.)	

JUDGMENT

For the reasons expressed in the Court's memorandum filed herewith, it is hereby
ORDERED:

(1) The petition [Court File No. 1] of Larry T. Kelley ("Kelley") for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DISMISSED**;

(2) The respondent's motion to dismiss [Court File No. 5] is **GRANTED**.

Additionally, the Court has reviewed this case pursuant to 28 U.S.C. § 1915(a)(3) and Rule 24 of the Federal rules of Appellate Procedure and hereby **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous. Therefore, any application by Kelley for leave to proceed *in forma pauperis* on appeal is **DENIED**. 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24.

If any appeal is taken from this action, such notice will be treated as an application for a certificate of appealability, which is hereby **DENIED** since Kelley has failed to make a substantial showing of the denial of a constitutional right, Rule 22(b) of the Federal Rules of Appellate

Procedure, and has failed to demonstrate reasonable jurists would debate the correctness of the Court's ruling. *See Miller-El v. Cockrell*, 537 U.S. 322, 327, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); 28 U.S.C. § 2253(c)(2).

ENTER this 22nd day of September, 2005.

/s/ R. Allan Edgar

R. ALLAN EDGAR
CHIEF UNITED STATES DISTRICT JUDGE